

## UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re

Debtor.

BANKRUPTCY NO.

Moving Party

RS NO.

Respondent(s)

## MOTION FOR RELIEF FROM AUTOMATIC STAY

 REAL PROPERTY       PERSONAL PROPERTY

Movant in the above-captioned matter moves this Court for an Order granting relief from the automatic stay on the grounds set forth below.

1. A Petition under Chapter  7  11  12  13 was filed on \_\_\_\_\_.
2. Procedural Status:
  - a.  Name of Trustee Appointed (*if any*): \_\_\_\_\_
  - b.  Name of Attorney of Record for Trustee (*if any*): \_\_\_\_\_
  - c.  (*Optional*) Prior Filing Information:  
Debtor has previously filed a Bankruptcy Petition on: \_\_\_\_\_.  
If applicable, the prior case was dismissed on: \_\_\_\_\_.
  - d.  (*If Chapter 13 case*): Chapter 13 Plan was confirmed on \_\_\_\_\_ or a confirmation hearing is set for \_\_\_\_\_.

Movant alleges the following in support of its Motion:

1.  The following real property is the subject of this Motion:
  - a. Street address of the property including county and state: \_\_\_\_\_
  - b. Type of real property (e.g., single family residence, apartment building, commercial, industrial, condominium, unimproved): \_\_\_\_\_
  - c. Legal description of property is attached as Exhibit A.

d. If a chapter 11 or 13 case and if non-payment of any post-petition payment is a ground for relief, attach the accounting required by Local Bankruptcy Rule 4001-2(a)(4) as Exhibit B.

e. \*Fair market value of property as set forth in the Debtor's schedules: \$\_\_\_\_\_.

f. \*Nature of Debtor's interest in the property:

2.  The following personal property is the subject of this Motion (describe property):

a. Fair market value of property as set forth in the Debtor's schedules: \$\_\_\_\_\_.

b. Nature of Debtor's interest in the property:

3. \*Fair market value of property according to Movant: \$\_\_\_\_\_.

4. \*Nature of Movant's interest in the property:

5. \*Status of Movant's loan:

a. Balance owing \_\_\_\_\_

b. Amount of monthly payment: \$\_\_\_\_\_

c. Date of last payment: \_\_\_\_\_

d. If real property,

i. Date of default: \_\_\_\_\_

ii. Notice of Default recorded on: \_\_\_\_\_

iii. Notice of Sale published on: \_\_\_\_\_

iv. Foreclosure sale currently scheduled for: \_\_\_\_\_

e. If personal property,

i. Pre-petition default: \$\_\_\_\_\_ No. of months: \_\_\_\_\_

ii. Post-petition default: \$\_\_\_\_\_ No. of months: \_\_\_\_\_

6. (If Chapter 13 Case, state the following:)

a. Date of post-petition default: \_\_\_\_\_

b. Amount of post-petition default: \$\_\_\_\_\_

7. Encumbrances:

a. Voluntary encumbrances on the property listed in the Schedules or otherwise known to Movant:

Lender Name	Principal Balance	(IF KNOWN) Pre-Petition Arrearages Total Amount - # of Months		Post-Petition Arrearages Total Amount - # of Months	
1st:					
2nd:					
3rd:					
4th:					
Totals for all Liens:	\$	\$		\$	

b. Involuntary encumbrances of record (e.g., tax, mechanic's, judgment and other liens, lis pendens) as listed in schedules or otherwise known to Movant:

See attached page, if necessary.

8. Relief from the automatic stay should be granted because:

- a.  Movant's interest in the property described above is not adequately protected.
- b.  Debtor has no equity in the  real property  personal property described above and such property is not necessary to an effective reorganization.
- c.  The property is "single asset real estate", as defined in 11 U.S.C. § 101(51B), and 90 days (or \_\_\_\_\_ days as ordered by this court) have passed since entry of the order for relief in this case, and
  - i. the Debtor/Trustee has not filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; and
  - ii. the Debtor/Trustee has
    - (1)  not commenced monthly payments to each creditor whose claim is secured by the property (other than a claim secured by a judgment lien or by an unmatured statutory lien), or
    - (2)  commenced payments, but such payments are less than an amount equal to interest at a current fair market rate on the value of each creditors' interest in the property.
- d.  \*Other cause exists as follows (specify):  See attached page.

When required, Movant has filed separate Declarations pursuant to Local Bankruptcy Rule 4001-2(a)(5) and (6).

Movant attaches the following:

1.  Other relevant evidence:
2.  (Optional) Memorandum of points and authorities upon which the moving party will rely.

WHEREFORE, Movant prays that this Court issue an Order granting the following:

Relief as requested.  
 Other:

Dated:

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[Attorney for] Movant